The doctrine of the principal case was first announced in *So Relle* v. *Tel. Co.*, 55 Tex. 308, 40 Am. Rep. 805, and although the decision rests in part upon statute, the reasoning of the court sustains the modern and broader view. Such damages have generally been held too remote and uncertain, but recently there has been a marked tendency toward their allowance. *Mentzer* v. *Tel. Co.*, 93 Ia. 752, 57 Am. St. Rep. 294; 1 SUTHERLAND DAMAGES, 2d ed. pp. 156-157. The common law doctrine, denying the recovery of damages for mental pain and nervous shock, where there is no immediate physical harm, as set forth in *Lynch* v. *Knight*, 9 H. L. 577 and *Commissioners* v. *Coultas*, L. R. 13 App. Cas. 222, has of late been to some extent disregarded in England, and a broader doctrine announced. *Bell* v. *G. N. R. Co.*, 26 L. R. Ir. 428; *Wilkinson* v. *Downton* (1897), 2 Q. B. 57; *Dulieu* v. *White* (1901), 2 K. B. 669.

The principal case, however, appears opposed to the weight of authority in this country. *Chase* v. *Tel. Co.*, 44 Fed. 554; *Kester* v. *Tel. Co.*, 55 Fed. 603; *Wadsworth* v. *Tel. Co.*, 86 Tenn. 716, 6 Am. St. Rep. 864, Lurton J., dissenting.

TORT—ACTION AGAINST THE MAKER OF A CHATTEL BY ONE NOT A PARTY TO THE CONTRACT OF PURCHASE, FOR PERSONAL INJURY DUE TO THE DEFECTIVE CONDITION OF SUCH CHATTEL.—Plaintiff alleged that the defendant was the maker of self-feeding threshers, the band-cutting and self-feeding apparatus being placed immediately in front of the fast revolving cylinder; that this part of the machine was covered by a light sheet iron covering, without support except where it fitted upon other parts of the machine; that it was soft and pliable; that in operating the machine it was necessary to walk over it from the top of the main part, and was placed there for that purpose; that it was imminently and necessarily dangerous to the life of those who used it in the ordinary way; that the dangerous character of this covering was known by the defendant when it was supplied by him to the purchaser; that its unfitness could not be easily discovered by those operating the machine; that plaintiff was in the employment of the purchaser, and in the course of his duty of superintending the feeding and oiling of the machine, he walked over this covering in the usual way; that this immediately gave way and his leg was caught by the cylinder and crushed to a point above the knee. Upon demurrer by the defendant, that it owed no duty of care to the plaintiff, *Held*, Sanborn, J., overruling the district court decision, that plaintiff had a right of action; *Huset* v. *Case Threshing Machine Co.* (1903), (C. C. A. 8th Circuit) 120 Fed. R. 865.

The court lays down the following rules: "The *general rule* is that a contractor, manufacturer, or vendor is not liable to third parties who have no contractual relations with him for negligence in the construction, manufacture, or sale of the articles he handles." To this there are *three exceptions*: (1) "An *act of negligence* of a manufacturer or vendor which is imminently dangerous to the life or health of mankind, and which is committed in the preparation or sale of an article intended to preserve, destroy, or affect, human life, is actionable by third parties who suffer from the negligence." (2) "An owner's *act of negligence* which causes injury *to one who is invited by him* to use his defective appliance upon the owner's premises, may form the basis of an action against the owner." (3) "One who sells or delivers an article *which he knows* to be imminently dangerous to life or limb to another without notice of its qualities is liable to any person who suffers an injury therefrom which might have been reasonably anticipated, whether there were any contractual relations between the parties or not."

The court says: "The case falls fairly within the third exception. It portrays a negligence imminently dangerous to the lives and limbs of all who should undertake to operate it, a concealment of this dangerous condition, *a knowledge of the defendant when it was shipped and supplied to the employer of the plaintiff that the rig was imminently dangerous to all who should use it for the purpose for which it was made and sold, and consequent damage to the plaintiff.*" The court further says: "It is perhaps improbable that the defendant was possessed of the knowledge of the imminently dangerous character of this threshing machine when it delivered it, and that upon the trial of the case it will be found to fall under the general rule." Most of the cases upon the general rule and its exceptions are reviewed, but the following seem to have been overlooked: (1869), *George* v. *Skivington*, L. R. 5 Ex. 1; (1889), *Blood Balm Co.* v. *Cooper*, 83 Ga. 457, 20 Am. St. R. 324; (1893), *Crafts* v. *Parker W. & Co.*, 96 Mich. 245, 21 L. R. A. 139; (1898), *Wise* v. *Morgan*, — Tenn. —, 44 L. R. A. 548; (1898), *Caledonian R. Co.* v. *Mulholland*, A. C. 216; (1901), *Ives* v. *Weldon*, — Ia.—, 54 L. R. A. 854; (1902), *Smith* v. *Middleton*, — Ky. —, 56 L. R. A. 484. The *leading* cases are: for the general rule (1842), *Winterbottom* v. *Wright*, 10 M. & W. 109; for the *first* exception, (1816), *Dixon* v. *Bell*, 5 M. & S. 198; (1852), *Thomas* v. *Winchester*, 6 N. Y. 397, 57 Am. Dec. 455: for *second* exception, (1874), *Coughtry* v. *Globe Woolen Co.*, 56 N. Y. 124, 15 Am. Rep. 387; and for the *third* exception, (1837), *Langridge* v. *Levy*, 2 M. & W. 519, 4 M. & W. 337.

TORT—ASSAULT AND BATTERY—CIVIL LIABILITY OF PERSON STANDING *in loco parentis* TO A MINOR FOR EXCESSIVE CHASTISEMENT.—Plaintiff, when six years old had been sent by her parents to reside with her maternal aunt, with whom she remained six or seven years. About a year after having again taken up her residence with her parents, she brings action against her aunt, alleging cruel and excessive punishment resulting in permanent physical injuries. *Held*, action maintainable; question of excessive punishment was one of fact for the jury. *Clasen* v. *Pruhs* (1903), — Neb. —, 95 N. W. Rep. 640.

That a parent or person standing in that relation is criminally responsible for cruel, unreasonable, or excessive punishment of a child is clearly the rule, but the civil liability of parent to child for such excessive chastisement has been quite generally denied. COOLEY ON TORTS, 197; JAG. ON TORTS, 462; SCHOULER DOM. REL. (4th Ed.), Sec. 275; *Foley* v. *Foley* (1895), 61 Ill. App. 577. Though no authority for the maintenance of such an action is cited in the principal case, the court notices the rule as stated by Judge Cooley and says that the reason for the rule is not applicable to the case at bar because the relation of parent and child between plaintiff and defendant had ceased to exist prior to the commencement of the action. The case of *Hewlett* v. *George* (1891), 68 Miss. 703, 9 South. 885, 13 L. R. A. 682, though denying the right of action during the time the relation of parent and child continues, intimates that a severance of the relation might remove the disability. However, since the right of action is denied on grounds of public policy, it is difficult to see why the same policy would not prohibit the action after a severance of the relation. SCHOULER DOM. REL. Sec. 275. See on general subject I MICH. LAW REVIEW, 334.

TORT—NEGLIGENCE—CONTRIBUTORY NEGLIGENCE—INJURY TO BICYCLIST BY STREET CAR.—The injury for which plaintiff sues occurred while he was riding a bicycle on the outside and near defendant's track. A car approaching from behind struck plaintiff and caused him to fall. The defense of contributory negligence was interposed. *Held*, plaintiff's negligence in not